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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/576,165
Filing Date: April 19, 2006
Appellant(s): THELEN ET AL.

_____
Dicran Halajian
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/07/2010 appealing from the Office action

mailed 07/20/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application: Claims 1, 4-18, and 23-24.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are

provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in

the Appendix to the appellant's brief.

(8) Evidence Relied Upon

5,526,130	Kim	6-1996
2005/0120373	Thomas	6-2005
6,925,650	Arsenault	8-2005
2002/0174430	Ellis	11-2002
7,171,174	Ellis	1-2007
2006/0072354	Ohnuma	4-2006

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   **Claims 1, 5-9, 11-18, 23 and 24** are rejected under 35 U.S.C. 103(a) as being

unpatentable over US Patent 5,526,130 to Kim et al. (hereafter referenced as Kim) in

view of US PG Pub 2005/0120373 to Thomas et al (hereafter referenced as Thomas)

and US Patent 6,925,650 to Arsenault et al (hereafter referenced as Arsenault).

Regarding **claim 1,** "a method for recording content on a record medium

that contains a desired content descriptor of the content" reads on the video

cassette recorder that records a broadcast program based on a program title

(abstract and col.1, lines 9-16) disclosed by Kim and represented in Fig. 1.

As to "the method comprising the acts of: reading said desired content

descriptor from said record medium" Kim discloses (col.2, lines 49-51) that the

program title provided by user to record the program is read and encoded at the

recording device.

As to "scanning the content of at least one multimedia source for desired

content that matches said desired content descriptor" Kim discloses (col.2, lines

51-55) that the program title data inputted by user are detected and matched with

broadcast program data received in the device.

As to "recording said desired content on said record medium" Kim

discloses (col.2, lines 60-62) that the recording device records matching

broadcast program.

Kim meets all the limitations of the claim except "storing said desire

content descriptor on said record medium by a first device; and reading,

scanning, and recording said desire content descriptor on the recording medium

by a second device local to a user of the record medium, wherein the first device

is remote from the local device, and wherein the first device is associated with a

provider of the record medium and is different from the second device."

However, Thomas discloses (¶0177, ¶0178) that the configuration file, which

includes reference to the digital content, stored on a removable medium is

generated by a source (first device) other than the interactive television

application installed locally (second device), where the source maybe the website

(provider) accessed from a computer. Thomas further discloses (¶0059, ¶0179,

¶0188) that when removable medium is inserted in the STB, the interactive

television application installed locally at the user's STB, retrieves and store the

digital content program on the removable medium. Thomas also discloses

(¶0178) that the website (provider) is associated with the user's device, which

creates a configuration file based on the user's selection.

As to "wherein inserting the record medium containing the desired content

descriptor into the second device triggers the second device to automatically

perform the acts of scanning and recording" Thomas discloses (¶0061, ¶0067)

that the STB is connected to a removable medium such as VCR or devices with

storage capabilities such as Optical Discs, flash drive, etc. as represented in Fig.

2 (element 62). Thomas further discloses (¶0023, ¶0177) that the reference to

the digital content program is stored on a file on a removable medium. Thomas

also discloses (¶0068, ¶0179, ¶0188) that the removable medium is inserted into

the STB, where the interactive television application retrieves and store the

digital content program on the removable medium as represented in Fig. 10.

Therefore, it would have been obvious to one of the ordinary skills in the art at

the time of the invention to modify Kim's system by inserting a recording medium

containing content descriptor into the recording device as taught by Thomas in

order to perform the future record of the digital content program to the removable

medium without requiring any further user interaction (¶0007).

Combination of Kim and Thomas meets all the limitations of the claim

except "the first device is associated with a provider of the record medium."

However, Arsenault discloses (abstract and col.18, lines 15-18) that the

keywords information is stored in the memory by the manufacturer. Therefore, it

would have been obvious to one of the ordinary skills in the art at the time of the

invention to modify Kim and Thomas' systems by using manufacturer to store the

information in the memory as taught by Arsenault in order to help eliminate the

difficult and time consuming task of entering data with the remote control (col.1,

lines 62-64).

Regarding **claim 5,** "the method, wherein said desired content descriptor

contained in said record medium can be further altered and augmented" Thomas

discloses (¶0148) that the user can add/remove programs from the listing as

represented in Fig. 9. In addition, same motivation is used as rejection to claim

1.

Regarding **claim 6,** "the method, wherein said desired content descriptor can be transferred from said record medium to a record medium of the same type or to a record medium of a different type" Thomas discloses (¶0177) that the reference to the selected programs are created by the interactive television application of the STB and transferred to the removable medium. The claim would have been obvious because a person or ordinary skill has good reason (store back-up copy of the program information) to pursue the known options (transfer from removable medium to receiver or vice versa) within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense.

Regarding **claim 7,** "the method, wherein said record medium is suited for electric and/or magnetic and/or optic recording of content" Kim discloses (abstract) that the video cassette recorder is used to record program. However, Thomas discloses (¶0067) that the removable medium includes optical discs or magnetic storage. In addition, same motivation is used as rejection to claim 1.

Regarding **claim 8,** "the method, wherein said desired content descriptor is a keyword or a list of keywords" Kim discloses (col.4, lines 45-56) that the user provides a program title by inputting word or words.

Regarding **claim 9,** "the method, wherein said desired content descriptor

obeys a pre-defined content description format" Kim discloses (col.5, lines 16-19;

col.6, lines 22-27) that the broadcast schedule recognition data identifies

predefined program title used to distinguish desired program title form the other

program titles. However, Thomas discloses (¶0150) that the digital content

programs are stored in a pre-defined format as represented in Fig. 9 (element

915). In addition, same motivation is used as rejection to claim 1.

Regarding **claim 11,** "the method, wherein said desired content descriptor

is a pre-defined content descriptor" Thomas discloses (¶0148) that the viewer is

provided with the pre-defined programming listing, where user can further

add/remove programs as represented in Fig. 9 (element 905). In addition, same

motivation is used as rejection to claim 1.

Regarding **claim 12,** "the method, wherein said desired content descriptor

is defined by the user of said method" Kim discloses (col.4, lines 46-47) that the

user provides a program title via data input device.

Regarding **claim 13,** "the method, wherein said content from at least one

multimedia source comprises image and/or audio and/or text information" Kim

discloses (col.4, lines 37-38; col.6, lines 10-13) that the image signal, transmitted

from broadcast station, is received through the tuner of receiving device as represented in Fig. 1 (element 20).

Regarding **claim 14,** "the method, wherein said at least one multimedia source is a receiver for television and/or radio programs" Thomas discloses () that the removable medium is connected to a STB, where STB receives television channels as represented in Fig. 2. In addition, same motivation is used as rejection to claim 1.

Regarding **claim 15,** "the method, wherein said at least one multimedia source is a device that is connected to a computer network, in particular to the internet" Thomas discloses (¶0064) that the STB is connected to an Internet. In addition, same motivation is used as rejection to claim 1.

Regarding **claim 16,** "the method wherein said act of scanning the content of said at least one multimedia source for said desired content comprises image and/or audio and/or word processing" Kim discloses (col.2, lines 51-55; col.4, lines 37-38) that the image signal, transmitted from broadcast station, is received through the tuner of receiving device where the program titles are scanned and detected to match with user inputted program title.

Regarding **claim 17,** "the method, wherein said act of scanning the content of said at least one multimedia source for said desired content is performed dynamically depending on the available amount of content and/or on the already recorded content" Thomas discloses (¶0095, ¶0143) that when viewer inserts the removable medium to the STB, interactive television application scans and retrieves the available programs stored on the STB/remote server. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Kim's system to scan the recorded program content on the device as taught by Thomas in order to reproduce the instructed program from the recording medium quicker than scanning other devices to reproduce a desire program.

Regarding **claim 18,** "a machine-readable medium embodying a computer program, the computer program when executed by a processor is configured to perform the acts of claim 1" Thomas discloses (claims 70-76) that the machine-readable medium comprises machine readable instructions recorded thereon to do record the program on the removable medium. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to install the program on computer readable medium as taught by Thomas so the user, without TV equipments, can use computer device to run the above operation.

Regarding **claim 23,** "the method of claim 1, wherein the provider

comprises a manufacturer of the record medium" Arsenault discloses (abstract

and col.18, lines 15-18) that the keywords information is stored in the memory by

the manufacturer. Therefore, it would have been obvious to one of the ordinary

skills in the art at the time of the invention to modify Kim and Thomas' systems

by using manufacturer to store the information in the memory as taught by

Arsenault in order to help eliminate the difficult and time consuming task of

entering data with the remote control (col.1, lines 62-64).

Regarding **claim 24,** "the method of claim 1, wherein the desired content

descriptor is already contained in a blank of the record medium before the user

has recorded any information on the record medium" Thomas discloses (¶0061,

¶0067) that the STB is connected to a removable medium with storage

capabilities such as Optical Discs, flash drive, etc. as represented in Fig. 2

(element 62). Thomas further discloses (¶0023, ¶0177, ¶0188, ¶0189) that the

reference to the digital content program is stored on a file on a removable

medium before the digital content program is recorded on the removable medium

as represented in Fig. 10. Thomas also discloses (¶0068, ¶0179) that the

removable medium is inserted into the STB, where the interactive television

application retrieves and stores the digital content program on the removable

medium as represented in Fig. 10. In addition, same motivation is used as

rejection to claim 1.

3.   **Claim 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Thomas and Arsenault as applied to claim 1 above, and further in view of US PG Pub 2002/0174430 to Ellis et al (hereafter referenced as Ellis).

Regarding **claim 4,** combination of Kim, Thomas and Arsenault meets all the limitations of the claim except "the method wherein said desired content descriptor contained in said record medium cannot be further altered or augmented." However, Ellis discloses (¶0184) that the edit button may not provide user with the ability to edit program information as represented in Fig. 3. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to modify Kim, Thomas and Arsenault's systems by not providing option to alter content descriptor to user as taught by Ellis so the content descriptor can not be erased by error.

4.   **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Thomas and Arsenault as applied to claim 1 above, and further in view of US Patent 7,171,174 to Ellis et al (hereafter referenced as Ellis'174).

Regarding **claim 6,** "the method, wherein said desired content descriptor can be transferred from said record medium to a record medium of the same type or to a record medium of a different type" Thomas discloses (¶0177) that the reference to the selected programs are created by the interactive television application of the STB and transferred to the removable medium. However,

combination of Kim, Thomas and Arsenault does not explicitly teach that the

content descriptor can be transferred from said record medium to another record

medium. Ellis'174 discloses (col.6, lines 9-10; col.7, lines 38-41; col10, line 59-

col.11, line 3) that the user preference information stored on a flash memory can

be transferred to a memory within the controller 145 as represented in Fig. 1 and

2 (element 145). Therefore, it would have been obvious to one of the ordinary

skills in the art at the time of the invention to modify Kim and Thomas' systems

by transferring preference information between recording medium as taught by

Ellis'174 in order to have a backup copy of the preference information and also to

record program on the storage medium of the other device.

5.   **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in

view of Thomas and Arsenault as applied to claim 1 above, and further in view of US

PG Pub 2006/0072354 to Ohnuma (hereafter referenced as Ohnuma).

Regarding **claim 10,** "the method wherein said desired content descriptor

comprises multimedia samples" Kim discloses (col.4, lines 52-56) that the

program titles inputted by user are for the desired broadcast program.

Combination of Kim, Thomas and Arsenault meets all the limitations of the

claim except "descriptor comprises multimedia samples." However, Ohnuma

discloses (¶0066 and ¶0067) that the user selects the desired program to record

from the sample of broadcast program attributes given on the screen as

represented in Fig. 8. Therefore, it would have been obvious to one of the

ordinary skills in the art at the time of the invention to modify Kim, Thomas and

Arsenault's systems to use multimedia sample to record the desired program as

taught by Ohnuma in order to record the desired program in the recording

medium when viewers can not remember program name.

(10) Response to Argument

With regard to the appellant's ARGUMENT section beginning on pg. 8 of the

Appeal Brief, the appellant has provided arguments addressing the 35 USC 103(a)

rejections of claims 1, 5-9, 11-18, and 23-24 under Kim (US 5,526,130) in view of

Thomas (US 2005/0120373) and Arsenault (US 6,925,650), and claim 4 under USC

103(a) over Kim in view of Thomas and Arsenault and further in view of Ellis (US

2002/0174430), and claim 6 under USC 103(a) over Kim in view of Thomas and

Arsenault and further in view of Ellis (US 7,171,174), and claim 10 under USC 103(a)

over Kim in view of Thomas and Arsenault and further in view of Ohnuma (US

2006/0072354).

Appellant's arguments against the cited art begin on pg. 8 of the brief and are

addresses as follows:

<u>(A) – Rejection of claims 1, 5-9, 11-18, and 23-24 under 35 USC 103</u>

- Appellant intended to say that the second limitation "reading said desired

  content descriptor from said record medium by a second device local to a

  user of the record medium, wherein the first device is remote from the

  local device, and wherein the first device is associated with a provider of

the record medium and is different from the second device" combined with

the fourth limitation "wherein inserting the record medium containing the

desired content descriptor into the second device triggers the second

device to automatically perform the acts of scanning and recording" is not

taught by Arsenault. Arsenault is not relied upon the limitation "wherein

inserting the record medium containing the desired content descriptor into

the second device triggers the second device to automatically perform the

acts of scanning and recording" which is met by Thomas. Thomas

discloses (¶0061, ¶0067, ¶0177-¶0179, ¶0188) that the STB is connected

to a removable medium, where a reference to the digital content program

is stored on a configuration file on a removable medium and the

removable medium is inserted into the STB, where the STB automatically

retrieves and stores the digital content program on the removable

medium. Thomas has configuration file (content descriptors) that is

provided by the device which is remote from the STB. However, Thomas

does not say that the device is associated with a provider of the record

medium. Arsenault teaches that the memory of the STB can have content

descriptors pre-stored by the service provider.

- Appellant mischaracterize references. In the combination of Kim,

  Thomas, and Arsenault, Kim reads the descriptor, scans and records the

  desired content, Thomas teaches the content descriptor comes from the

  insertable removable medium, and Arsenault teaches the descriptor

stored in the device can actually come from the service provider. The
motivation is that it is the most sensible way to record the program on the
record medium.

(B) – Rejection of claims 4, 6, and 10 under 35 USC 103

- Appellant provide no further arguments over and above those previously
  presented with respect to deficiencies believed to exist in the references
  Kim, Thomas, and Arsenault used to reject independent claim 1.
  Accordingly, the rejection of claims 4, 6, and 10 is considered proper in
  light of the previously presented arguments.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the
Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Pinkal R. Chokshi/

Examiner, Art Unit 2425

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/Brian T Pendleton/

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